

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 18-435V

Filed: January 21, 2021

UNPUBLISHED

MIRANDA SELLERS,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Special Master Horner

Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Shoulder
Injury Related to Vaccine
Administration (SIRVA)

Michael Patrick Milmoie, Law Offices of Leah V. Durant, PLLC, Washington, DC, for petitioner.

Camille Michelle Collett, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

On March 23, 2018, Miranda Sellers filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that she suffered a Shoulder Injury Related to Vaccine Administration (SIRVA). (ECF No. 1, p. 1.)

On November 19, 2020, a ruling on entitlement was issued, finding Petitioner entitled to compensation for her SIRVA. On January 19, 2021, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$72,500.00. (ECF No. 51, p. 1.) In the Proffer, Respondent represented that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims’ website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$72,500.00 in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Daniel T. Horner
Daniel T. Horner
Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS

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|---------------------|---|----------------|
| MIRANDA SELLERS, |) | |
| |) | |
| Petitioner, |) | No. 18-435V |
| |) | Special Master |
| v. |) | Daniel Horner |
| |) | ECF |
| |) | |
| SECRETARY OF HEALTH |) | |
| AND HUMAN SERVICES, |) | |
| |) | |
| Respondent. |) | |
| |) | |

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On March 23, 2018, Miranda Sellers (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), alleging that she suffered a Shoulder Injury Related to Vaccine Administration (“SIRVA”), as defined in the Vaccine Injury Table, following administration of an influenza (“flu”) vaccine she received on October 3, 2016. ECF No. 1. On April 30, 2019, respondent filed his Rule 4(c) Report, indicating that this case was not appropriate for compensation under the terms of the Act for a SIRVA Table injury. ECF No. 18. On November 18, 2020, respondent filed an amended Rule 4(c) Report, indicating that respondent would not dispute that petitioner had satisfied the legal prerequisites for compensation under the terms of the Act for a SIRVA Table injury. ECF No. 47. On November 19, 2020, the Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation. ECF No. 48. Respondent now proffers that petitioner receive an award of a lump sum of \$72,500.00, in the form of a check payable to petitioner, an award comprised of \$72,500.00 for past and future pain

and suffering. This amount represents compensation for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioner is entitled.¹ Petitioner agrees.

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

Respectfully submitted,

JOHN V. COGHLAN
Deputy Assistant Attorney General,
Federal Programs Branch, Civil Division

C. SALVATORE D’ALESSIO
Acting Director
Torts Branch, Civil Division

HEATHER L. PEARLMAN
Acting Deputy Director
Torts Branch, Civil Division

DARRYL R. WISHARD
Assistant Director
Torts Branch, Civil Division

s/Camille M. Collett
CAMILLE M. COLLETT
Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146 Benjamin Franklin Station
Washington D.C. 20044-0146
Tel: (202) 616-4098
E-mail: Camille.m.collett@usdoj.gov

Dated: January 19, 2021

¹ Should petitioner die prior to the entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future lost earnings, and future pain and suffering.